

REMARKS

Claims 1-17 and 19-44 are currently pending. Claims 1, 2, 6-8, 10, 11, 13, 16, 17 and 32 have been amended. Claim 18 was previously cancelled. Support for the claim amendments can be found at paragraphs [0126] to [0129] of the specification and in Figure 2. The claims have been rejected as follows: claims 1 and 17 are rejected under 35 USC 101 and claims 1-17 and 19-44 are rejected under 35 USC 102(e) in view of Shkedy.

In view of the amendments and arguments presented herein, the undersigned submits that the pending claims are allowable over the cited art of record.

The undersigned requests an in-person interview with the Examiner at the Examiner's earliest convenience prior to examination on the merits under this RCE to clear up any misunderstandings that may be impeding prosecution.

Rejection under 35 USC 101

Claims 1 and 17 have been amended to more clearly recited machine implementation of the process steps recited therein. Importantly, claim 17 is not a process claim, but instead is directed to a system, not a process. As articulated in the Federal Circuit's recent *en banc* holding in *In re Bilski*, a claimed process is eligible for patent protection if: (1) it is tied to a particular machine or apparatus or (2) it transforms a particular article into a different state or thing. As amended, the process claimed in claim 1 and the process steps recited in claim 17 are clearly tied to a particular apparatus, e.g., server or device. Accordingly, the undersigned submits that pending claims are patent-eligible pursuant to 35 USC 101.

Rejection under 35 USC 102

The Office maintains the rejection of the claims in view of Shkedy. It is well-established that in order to maintain an anticipatory rejection under any section of 35 USC 102, each and every claim limitation must be recited in a single reference, either explicitly or inherently. In response to previous arguments regarding missing limitations, the Office merely recites *verbatim*

the earlier rejection which consisted of a repeating of the claim language, again, *verbatim*, followed by the following citation to the specification, “column 4 lines 1-40 and column 5 lines 51-67 and column 6-12 lines 1-67” and the statement: “Therefore it is inherently clear that Applicant’s claimed limitations were addressed within the teachings of Shkedy.” The undersigned notes that the Office has essentially pointed to 8 columns of text from Shkedy or 4 full pages of the patent without identifying more particularly where the missing limitations are recited.

As argued previously, Shkedy does not describe “electronic tokens.” Indeed, the word token is not found in the Shkedy patent. “Electronic tokens” as defined in the pending specification and claims are electronic authorizations which have been purchased by a user using a conventional currency and method, e.g., credit cards, debit from bank account, checks, money order and the like. The electronic tokens are used in the place of currency to conduct the transactions and thus are themselves a category of currency. The undersigned has carefully studied the passages set forth Shkedy and finds no description of such an alternative currency. At most, Shkedy describes a separate controller to which buyers and sellers communicate desires to purchase securities (buyers) and desires to sell securities (sellers). The separate controller then acts as a matchmaker and manager of the ultimate transaction. But nowhere does Shkedy discuss the claimed limitations related to the purchase of electronic tokens by the buyers from the separate controller and use of such electronic tokens as currency to settle the ultimate transaction. Further, as recited in claim 1, Shkedy does not discuss the establishment of separate buyer and seller micropayment accounts at the separate controller. Accordingly, Shkedy clearly does not anticipate any limitations related to the user and vendor micropayment accounts. The Office makes a passing reference to these limitations being inherent to the Shkedy embodiments. Without more, this argument cannot be addressed by the undersigned. The burden on the Office is high with respect to proving inherency and requires that the claimed limitations **necessarily** flow from the explicit description in the reference. Clearly, this burden has not been met in this case, where the Office Action does not include of relevant portions of Shkedy to the claims.

The undersigned submits that at least the claimed limitations recited above are not described, either explicitly or inherently, in Shkedy. As such, claims 1-17 and 19-44 are

allowable over Shkedy and the undersigned respectfully requests that the Office indicate this in a notice of allowance.

CONCLUSION

The foregoing is submitted as a full and complete response to the OA mailed 04/11/2008. With consideration of the above remarks and amendments, the undersigned submits that this application is in condition for allowance, and such disposition is earnestly solicited.

The OA contains characterizations of the claims and the references with which the Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the OA. In discussing the specification, claims, and drawings in this Reply, it is to be understood that Applicants are in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification and/or shown in the drawings. Rather, Applicants are entitled to have the claims interpreted to the maximum extent permitted by statute, regulation, and applicable case law.

The undersigned requests an in-person interview with the Examiner at the Examiner's earliest convenience prior to examination on the merits under this RCE to clear up any misunderstandings that may be impeding prosecution.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 141437 and please credit any excess fees to such deposit account.

Respectfully submitted,

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